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09/158,968	09/21/1998	MARK LUCOVSKY	1570	4579

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EXAMINER

KUPSTAS, TOD A

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 05/06/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/158,968

Applicant(s)

LUCOVSKY ET AL.

Examiner

Tod Kupstas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>11</u> . | 6) <input type="checkbox"/> Other:  |

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## DETAILED ACTION

### *Claim Objections*

1. Claims 25, 26, and 43 are objected to because of the following informalities: Claims 25, 26, and 43 should be written in independent form. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Gasford et al. (US 6,023,586)

As set forth in claim 1, Gaisford discloses in a computer network; see col. 2, lines 53-57 (the system is a computer network), a method of deploying a plurality of programs to a policy recipient (the user in the system is the policy recipient, the system distributes program updates and repairs), comprising, maintaining an association between each program and the policy recipient; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent) at least one association corresponding to a program that is assigned as mandatory for the policy recipient to have on a computer system associated with that policy recipient, and at least one other association corresponding to a program that is published as optional for the policy recipient to have, see col. 15, line 64-col. 16, line 14 (there may be automatic programs that are installed as well as selective procedures), determining a time for deploying each assigned program to the policy recipient; see col. 9, lines 33-37 (the scheduling data will have the times for sending out the updates, etc.), and making that program available to the policy recipient at that time, and deploying each published program to the policy recipient when the published program is activated via the computer system; see col. 15, line 29-col. 16, line 14, also see fig. 9, (the user upon selecting the program will have the option of launching the update, or alternatively the update will automatically launch).

As set forth in claim 2, Gaisford discloses a method wherein the policy recipient is a user, and wherein determining a time for deploying each assigned program to the policy recipient

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includes detecting that the user is logging on to the network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 3, Gaisford discloses a method wherein the policy recipient is a machine comprising the computer system, and wherein determining a time for deploying each assigned program to the policy recipient includes the detecting that the machine is connecting to the network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 4, Gaisford discloses a method wherein determining a time for deploying each assigned program to the policy recipient includes polling machines in the network; see col. 10, lines 27-33, (distribution of the programs requires polling the machines to determine their availability, the existence of target lists in and distribution lists in Gaisford indicates that polling is done, as opposed to simply broadcasting the update across the network).

As set forth in claim 5, Gaisford discloses a method further comprising detecting a request to run a selected one of the assigned programs, accessing the registry to locate the selected

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assigned program, and executing the selected assigned program; see fig 9, and col. 15, line 29-col. 16, line 14, clicking on the icon will indicate a desire to launch that program.

As set forth in claim 6, Gaisford discloses a method wherein the step of maintaining an association between each assigned program and the policy recipient comprises storing at least one script in association with policy information for that policy recipient; see col. 11, lines 1-8.

As set forth in claim 7, Gaisford discloses a method wherein storing each script comprises maintaining a centralized directory of network objects; (a list of network objects is maintained by the system see fig. 2).

As set forth in claim 8, Gaisford discloses a method wherein making the program available to the policy recipient comprises advertising the program as available for execution prior to installation of program code used to execute the program on the computer system, and further comprises in response to a request to execute the program, installing the program code at the computer system and executing the program code; see fig. 9, and col. 15, line 29-col. 16, line 14, clicking on the icon will either automatically install an update or prompt the user to select whether or not the update should be instituted.

As set forth in claim 9, a method wherein advertising the program as available includes adding an application shortcut to a user profile such that a user perceives the program as executable prior to installation of program code used to execute the program on the system (the provision of the icon that then prompts the user to install the program, see fig. 9).

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As set forth in claim 10, Gaisford discloses a method wherein the making the program available to the policy recipient comprises writing information to a registry associated with the policy recipient such that a request related to executing the program prior to installation of program code used to execute the program on the computer system will have corresponding information in the registry that identifies the program for automatic installation and execution thereof; see fig 9, and col. 15, line 29-col. 16, line 14.

As set forth in claim 11, Gaisford discloses a method wherein writing information to the registry comprises maintaining in the registry an association between the program and class identifier information; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent).

As set forth in claim 12, Gaisford discloses a method wherein writing information to the registry comprises maintaining in the registry an association between the application program and a file extension; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent, an application and file extension would be covered in the system).

As set forth in claim 13, Gaisford discloses a method further comprising, detecting a user request to open a file (clicking on an icon), determining the file extension and accessing the registry to locate a corresponding program associated with the file extension (the pointer to the network component), and opening the file with the corresponding program; see fig 9, and col. 15, line 29-col. 16, line 14.

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As set forth in claim 14, Gaisford discloses a method further comprising the steps of, determining if the program is locally installed, and if not installed, installing the program and executing the program to open the file; see fig 9, and col. 15, line 29-col. 16, line 14 (if the system has no updates and the program is locally installed it will launch, if it is not locally installed and the pointer is to the update or the program, the user can launch the program).

As set forth in claim 15, Gaisford discloses in a computer network; see col. 2, lines 53-57 (the system is a computer network), a method of automatically deploying an application to a policy recipient (the user in the system is the policy recipient, the system distributes program updates and repairs), comprising the steps of, generating a script having information therein corresponding to the assigned program, associating the script with a policy, applying the policy to the policy recipient by processing the script to advertise the assigned program as available for execution by the policy recipient prior to installation of program code needed to execute the program, such that the program is installable on demand in response to a request to execute the program; see col. 15, line 64-col. 16, line 14 (there may be automatic programs that are installed as well as selective procedures).

As set forth in claim 16, Gaisford discloses a method wherein the policy recipient is a user, and wherein the step of applying the policy to the policy recipient is performed as part of a user network log on process; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the

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institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 17, Gaisford discloses a method wherein the policy recipient is a machine, and wherein the step of applying the policy to the policy recipient is performed as part of a re-boot process of the machine; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 18, Gaisford discloses a method wherein the step of associating the script with a policy comprises the step of maintaining the association in a centralized directory of network objects; see col. 11, lines 1-8, (a list of network objects is maintained by the system see fig. 2).

As set forth in claim 19, Gaisford discloses a method wherein applying the policy to the policy recipient includes adding an application shortcut to a user profile to advertise the program as available for execution (the provision of the icon that then prompts the user to install the program, see fig. 9).

As set forth in claim 20, Gaisford discloses a method wherein the step of applying the policy to the policy recipient includes the step of writing information to a registry associated with the policy recipient; (having a network administrator or the user adjust the distribution list).

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As set forth in claim 21, Gaisford discloses a method wherein the step of writing information to a registry comprises the step of maintaining in the registry an association between the application and class identifier information; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent).

As set forth in claim 22, Gaisford discloses a method wherein the step of writing information to a registry comprises the step of maintaining in the registry an association between the application and a file extension; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent, an application and file extension would be covered in the system).

As set forth in claim 23, Gaisford discloses a method further comprising the step of installing the application (the program is installed).

As set forth in claim 24, Gaisford discloses in a computer network, a system for deploying applications to policy recipients; comprising, a centralized store of policy objects (the database), including application information of at least one application for assigning to policy recipients, and a mechanism for applying policy objects to a policy recipient; see fig 9, and col. 15, line 29-col. 16, line 14.

As set forth in claim 25, Gaisford discloses a computer-readable medium having computer executable instructions for performing the method of claim 1 (the system runs on a computer and therefore exists due to computer executable instructions).

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As set forth in claim 26, Gaisford discloses a computer-readable medium having computer-executable instructions for performing the method of claim 15 (the system in Gaisford can be executed by having computer-executable instructions on a computer readable medium).

As set forth in claim 27, Gaisford discloses a system wherein at least one of the policy objects further associates a published program with a policy recipient, the published program deployed to a computer system corresponding to the policy recipient when the published program is activated; see fig 9, and col. 15, line 29-col. 16, line 14.

As set forth in claim 28, Gaisford discloses a system wherein the policy recipient comprises a user, and wherein the mechanism processes the advertise script when the user is logging on to the network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 29, Gaisford discloses a system wherein the policy recipient comprises a machine, and wherein the mechanism processes the advertise script when the machine connects to the network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

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As set forth in claim 30, Gaisford discloses a system wherein in processing the script, the mechanism adds an application shortcut to a user profile to advertise at least one assigned program to a user as being executable (the provision of the icon that then prompts the user to install the program, see fig. 9).

As set forth in claim 31, Gaisford discloses a system wherein in processing the script, the mechanism writes data to the registry to advertise at least one assigned program to the policy recipient (having the distribution list send out information).

As set forth in claim 32, Gaisford discloses a system wherein the data written to the registry comprises class identifier information (the programs are software objects that will have class information).

As set forth in claim 33, Gaisford discloses a system wherein the data written to the registry comprises file extension association information; see col. 9, lines 45-65 (the distribution lists maintains the relationship between the entities that are to receive the object and the distributing agent, an application and file extension would be covered in the system).

As set forth in claim 34, Gaisford discloses a system further comprising an installer that installs an advertised program in response to a request to execute the advertised program (upon selecting, clicking on an icon the choice for installing will exist, executing this option will install the program).

As set forth in claim 35, Gaisford discloses in a computing environment; see col. 2, lines 53-57 (the system is a computer network), a method comprising: maintaining deployment

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information in association with a policy recipient (the distribution list), the deployment information comprising: 1) assigned program data, the assigned program data identifying assigned programs that upon a deployment event are made available to the policy recipient via automatic deployment to a computer system associated with the policy recipient; 2) published program data, the published program data identifying published programs that are published to the policy recipient for optional deployment to the computer system associated with the policy recipient (the distribution list will send out program updates based upon the need), each published program deployed upon a detected need for that published program; automatically configuring a computer system associated with the policy recipient upon a deployment event, to have the assigned programs available for execution; and configuring the computer system with a selected published program upon a detected need for that selected published program; see col. 15, line 64-col. 16, line 14 (there may be automatic programs that are installed as well as selective procedures).

As set forth in claim 36, Gaisford discloses a method wherein the policy recipient is a user, and wherein the deployment event corresponds to the user logging on to the network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 37, Gaisford discloses a method wherein the policy recipient is a machine and wherein the deployment event corresponds to the machine connecting to the

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network; see col. 5, lines 33-52, col. 6, lines 1-21, col. 7, lines 15-20 (after joining a network and becoming part of a distribution list, scheduling data will be provided as well as the institution of distribution policies in place, by detecting that a user has logged on to a network the availability of updates as well as the automatic installation of required updates will be instituted).

As set forth in claim 38, Gaisford discloses a method further comprising, detecting a request to run a selected one of the assigned programs, accessing the registry to locate data related to the selected assigned program, and executing the selected assigned program; see col. 15, line 29-col. 16, line 14.

As set forth in claim 39, Gaisford discloses a method wherein configuring the computer system to have the assigned programs available for execution comprises advertising the program as available for execution prior to installation of program code used to execute the program on the computer system; see col. 15, line 29-col. 16, line 14.

As set forth in claim 40, Gaisford discloses a method further comprising, in response to a request to execute the program, installing the program code at the computer system and executing the program code; see col. 15, line 29-col. 16, line 14.

As set forth in claim 41, Gaisford discloses a method wherein advertising the program as available includes adding an application shortcut to a user profile (the provision of the icon that then prompts the user to install the program, see fig. 9).

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As set forth in claim 42, Gaisford discloses a method wherein advertising the program as available comprises writing information to a registry associated with the policy recipient (the providing of information to the distribution list).

As set forth in claim 43, Gaisford discloses a computer-readable medium having computer-executable for performing the method of claim 35 (the system uses computer-readable mediums).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argued the amended the claims to reflect selection of the program upon the update of the system. In response the Examiner has provided a new rejection to meet the limitations of the amended claims, and new claims 25-43. Furthermore, the Examiner points out that new claims 25, 26, and 43, should be rewritten in independent form, as they are improper as currently written.

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*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brodersen et al. (US 6,324,693) discloses a method of synchronizing independently distributed software and database schema.

Collins, III et al. (US 6,138,153) discloses a system for software distribution in a digital computer network.

Feinman (US 6,075,943) discloses a system and method for client server software installation.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tod Kupstas whose telephone number is (703) 305-2655.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached at (703) 305-4792. The fax phone number for this art unit is (703) 308-7201. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology center receptionist whose telephone number is (703) 305-3900.

Tod Kupstas

April 24, 2003

  
GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
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